

§ 1701.1

AUTHORITY: 12 U.S.C. 4513(b)(1) and 12 U.S.C. 4516.

SOURCE: 66 FR 18039, Apr. 5, 2001, unless otherwise noted.

§ 1701.1 Purpose.

This part sets forth the policy and procedures of OFHEO with respect to the establishment and collection of the annual assessments of the Enterprises under section 1316 of the Act (12 U.S.C. 4516).

§ 1701.2 Definitions.

For purposes of this part, the term—

(a) *Act* means the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, Title XIII of the Housing and Community Development Act of 1992, Pub. L. 102-550, section 1301, Oct. 28, 1992, 106 Stat. 3672, 3941-4012 (1993) (12 U.S.C. 4501 *et seq.*).

(b) *Adequately capitalized* means the adequately capitalized capital classification under section 1364 of the Act (12 U.S.C. 4614).

(c) *Director* means the Director of the Office of Federal Housing Enterprise Oversight or his or her designee.

(d) *Enterprise* means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and the term “Enterprises” means, collectively, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(e) *Surplus funds* means funds that are not obligated as of September 30 of each fiscal year that were collected from any Enterprise pursuant to § 1701.3 or § 1701.4.

(f) *Total assets* means the sum, as of the most recent June quarterly minimum capital report of the Enterprise, of the amounts of the following assets that are used to calculate the quarterly minimum capital requirement of the Enterprise under 12 CFR part 1750:

- (1) On-balance sheet assets;
- (2) Off-balance sheet mortgage-backed securities; and
- (3) Other off-balance sheet obligations.

(g) *OFHEO* means the Office of Federal Housing Enterprise Oversight.

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§ 1701.3 Annual assessment.

(a) *Establishment of assessment.* The Director may, to the extent provided in appropriation acts, establish and collect from the Enterprises an annual assessment for each fiscal year, as allocated under paragraph (b) of this section. The amount of the annual assessment shall not exceed the estimated amount to be sufficient to provide for the necessary administrative and non-administrative expenses to carry out the responsibilities of the Director relating to the Enterprises and to carry out the purposes of the Act.

(b) *Allocation and proportional share.* The annual assessment established under paragraph (a) of this section shall be allocated between the Enterprises. Each Enterprise shall pay a proportional share of the annual assessment that bears the same ratio to the total annual assessment as the total assets of each Enterprise bears to the total assets of both Enterprises.

(c) *Timing and amount of semiannual payment.* (1) Each Enterprise shall pay on or before October 1 and April 1 of each fiscal year an amount of one-half of its proportional share of the annual assessment, except:

(i) As provided in paragraph (c)(2) of this section;

(ii) To the extent surplus funds are credited under paragraph (d) of this section; and

(iii) To the extent a semiannual payment is increased under § 1701.4.

(2) If OFHEO is operating under a continuing appropriation as of October 1 of any year, each Enterprise shall pay, on such date as determined by the Director, an amount calculated by applying the annual assessment proportion calculated under paragraph (b) of this section to the amount authorized for expenditure. When OFHEO receives a regular appropriation, the amount of the allocation share of the annual assessment collected from each Enterprise shall be reduced by any partial payments made by each Enterprise in connection with any continuing appropriations.

(d) *Surplus funds.* Surplus funds shall be credited to the annual assessment by reducing the amount collected by the amount of the surplus funds. Surplus funds shall be allocated in the